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16 CITY AND COUNTY OF SAN FRANCISCO
17 HEATHER FONG, in her official capacity,
18 JOHN KESSOR, MICHELLE ALVIS and
19 PAUL MORGADO

20 KATHLEEN ESPINOSA, as a personal
21 representative of the Estate of decedent ASA
22 SULLIVAN; A.S., by and through his
23 Guardian ad Litem, NICOLE GUERRA,

24 Plaintiffs,

25 vs.

26 CITY AND COUNTY OF SAN
27 FRANCISCO, HEATHER FONG, in her
28 capacity as Chief of Police; JOHN KESSOR,
et al., MICHELLE ALVIS and PAUL MORGADO,

Defendants.

Case No. C06-04686 JSW

**DEFENDANTS' ADMINISTRATIVE MOTION
TO CONTINUE FINAL PRETRIAL
CONFERENCE; DECLARATION;
PROPOSED ORDER**

[UNOPPOSED]

Trial Date: September 7, 2014

Current Pretrial Conf.: February 10, 2014

RELIEF REQUESTED

25 The Court continued the trial date in this matter from March 10 to September 8, 2014, but the
26 final pretrial conference date was not continued and remains set for February 10, 2014. Defendants
27 respectfully request that the pretrial conference be continued to either August 18 or August 25, 2014.
28 Plaintiffs do not oppose the request. (Keith Decl. ¶ 3.)

1 BACKGROUND

2 This matter was set for trial in December 2013, but the Court continued the trial on its own
 3 motion to March 10, 2014, with a final pretrial conference set for February 10, 2014. (Doc. 347.)

4 After trial was set for March 10, 2014, Plaintiffs requested a continuance due to Plaintiffs'
 5 counsel's pre-existing trial date, and Defendants stipulated to the continuance. The Court granted the
 6 stipulated request and continued trial to September 8, 2014. (Doc. 353.) However, the stipulation and
 7 order were silent concerning the final pretrial conference date, and therefore the final pretrial
 8 conference remains on calendar for its original date, February 10, 2013 at 2 p.m.

9 **GOOD CAUSE EXISTS TO CONTINUE THE FINAL PRETRIAL CONFERENCE**

10 Defendants respectfully request that the final pretrial conference be continued to a date closer
 11 to trial. Plaintiffs do not oppose the request. (Keith Decl. ¶ 2.)

12 Good cause exists because defendants' lead trial counsel, Deputy City Attorney Blake Loebs,
 13 is having back surgery tomorrow, the date of which just had to be advanced due to his increasing
 14 symptoms, and his recovery time is expected to last for more than three weeks, past February 10.
 15 (Keith Decl. ¶ 3.) Therefore, there is a need to continue the pretrial conference.

16 Defendants respectfully suggest that the final pretrial conference be continued to a date closer
 17 to trial. Defendants note that the Court already held one final pretrial conference and that many legal
 18 matters such as motions in limine were already resolved as a result. (Doc. 309 (civil minute order),
 19 Doc. 336 (further ruling on motions in limine).) Therefore, the parties and the Court have already
 20 obtained the benefit of an early final pretrial conference. Moving the currently scheduled final pretrial
 21 conference closer to trial would more effectively permit the Court and the parties to address logistics,
 22 scheduling, and any new matters that may arise over the next several months that will affect the
 23 conduct of trial. (Keith Decl. ¶ 4.)

24 Therefore, Defendants respectfully propose that the final pretrial conference be set for Monday
 25 August 18, 2014 at 2pm, or alternatively Monday August 25, 2014 at 2pm. Counsel anticipates not
 26 being available on August 11, 2014. (Keith Decl. ¶ 5.)

27 //
 28

CONCLUSION

For the reasons discussed above Defendants respectfully request that the pretrial conference in this matter be continued from February 10, 2014 to either August 18, 2014 or August 25, 2014 at 2:00 pm.

Dated: January 28, 2014

DENNIS J. HERRERA
City Attorney
CHERYL ADAMS
Chief Trial Deputy
BLAKE P. LOEBS
PETER J. KEITH
Deputy City Attorneys

By: /s/ Peter J. Keith

PETER J. KEITH
Attorneys for Defendants
CITY AND COUNTY OF SAN FRANCISCO
HEATHER FONG, in her official capacity,
JOHN KEESOR, MICHELLE ALVIS and
PAUL MORGADO

DECLARATION OF PETER J. KEITH

I, Peter J. Keith, declare:

1. I am a Deputy City Attorney with the City and County of San Francisco. I have personal knowledge of the contents of this declaration, and, if called upon to testify, I could and would testify competently to the contents of this declaration.

2. On January 27, I informed Plaintiffs' counsel Ben Nisenbaum of Defendants' request for a continuance and proposed dates, and Mr. Nisenbaum informed me that Plaintiffs do not oppose this request.

3. My colleague Deputy City Attorney Blake Loebs and I are the two attorneys assigned to represent Defendants at trial, with Mr. Loebs as the lead counsel. Mr. Loebs informed me that he is having back surgery tomorrow, the date of which just had to be advanced due to his increasing symptoms, and his recovery time is expected to last for more than three weeks, past February 10.

4. In my experience, a pretrial conference would likely be more effective for the parties and the Court closer to trial. I expect that closer to trial counsel will know more about matters like

1 witness availability and scheduling, as well as any appellate decisions that might bear on trial. In
2 addition, unforeseen matters may arise in the next several months that may need to be addressed closer
3 to trial. Therefore, I expect it to be more efficient for the Court, counsel, and parties to continue the
4 final pretrial conference to a date closer to trial.

5. I am unlikely to be available on Monday August 11 due to vacation plans.

6 I declare under penalty of perjury under the laws of the State of California that the foregoing is
7 true and correct.

8 Executed, January 28, 2014, at San Francisco, California.

9 */s/ Peter J. Keith*

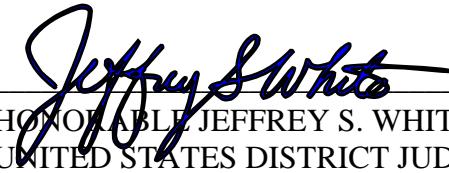
10 PETER J. KEITH

11 **[PROPOSED] ORDER**

12 GOOD CAUSE SHOWN, the Court hereby continues the pre-trial conference in this action
13 from February 10, 2014 at 2 p.m. to August ⁴18, 2014 at 2 p.m.

14 IT IS SO ORDERED.

15 Dated: February 4, 2014

16 
17 HONORABLE JEFFREY S. WHITE
18 UNITED STATES DISTRICT JUDGE